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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,625	02/19/2004	Kia Silverbrook	BAL78US	2767
24011 7590 09/07/2007 SILVERBROOK RESEARCH PTY LTD 393 DARLING STREET BALMAIN, 2041 AUSTRALIA			EXAMINER AGGARWAL, YOGESH K	
			ART UNIT 2622	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/780,625	Applicant(s) SILVERBROOK, KIA	
	Examiner Yogesh K. Aggarwal	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/19/2004</u> | 6) <input type="checkbox"/> Other: ____ |

Specification

1. The disclosure is objected to because of the following informalities: On page 1, after the title, insert the following new paragraph. --This is a continuation-in-part of Application No. 09/112,743, filed July 10, 1998, now Patent No. 6,727,951 --

Appropriate correction is required.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on July 15 1997. It is noted, however, that applicant has not filed a certified copy of the July 15 1997 application as required by 35 U.S.C. 119(b).

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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4. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,727,951 to Silverbrook in view of U.S. Patent No. 5,420,635 to Konishi et al. In regards to claim 1 of the instant invention Examiner notes that claim 1 of Silverbrook discloses all of the limitations except for “to add exposure specific graphics to said image”. Konishi discloses add exposure specific graphics to said image (col. 14, line 48- col. 15 line 5, figures 1, 3a, 3b, Also see col. 17 line 53- col. 19 line 16). When used to describe digital data, the Examiner interprets “graphic” as at least any data in the form of a picture or image, encompassing more than simply alphanumeric images/representations. Konishi et al. discloses capturing exposure specific images and forming a composite image with certain properly exposed areas of the images, i.e. adding exposure specific graphic data to an original image. In other words, adding an exposure specific graphic (properly exposed area of image 1) to an original image (image 2).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have been motivated to add exposure specific graphics to said image so that the dynamic range of an image is increased compared to prior art as taught by Konishi (col. 13 line 60-col. 14 line 14) thereby improving the overall quality of the image.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

.(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Konishi et al. (US 5,420,635).

[Claim 1]

Konishi et al. disclose a method of image enhancement of a sensed image taken with a digital camera, including an auto exposure setting means (col. 15, lines 6-46; Fig. 5, exposure control “10” determines the amount of exposure for the first and second imaging), said method comprising the step of utilizing the auto exposure setting from said auto exposure setting means to process said sensed image to add exposure specific graphics to said image [col. 14, line 48- col. 15 line 5, figures 1, 3a, 3b, Also see col. 17 line 53- col. 19 line 16. When used to describe digital data, the Examiner interprets “graphic” as at least any data in the form of a picture or image, encompassing more than simply alphanumeric images/representations. Konishi et al. discloses capturing exposure specific images and forming a composite image with certain properly exposed areas of the images, i.e. adding exposure specific graphic data to an original image. In other words, adding an exposure specific graphic (properly exposed area of image 1) to an original image (image 2) as shown in figure 1].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K. Aggarwal whose telephone number is (571) 272-7360. The examiner can normally be reached on M-F 9:00AM-5:30PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Lin Ye can be reached on (571)-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

YKA
August 30, 2007

A handwritten signature in black ink, appearing to read 'Lin Ye', with a long horizontal flourish extending to the right.

LIN YE
SUPERVISORY PATENT EXAMINER